

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1876 of 1999

Between:

E.Narasaiah, s/o laxmaiah, aged about 43 years,
R/o H.NO.10-1-771/311, Masabtank, Hyderabad-28.

..... PETITIONER

AND

- 1 The Regional Manager (HCR), A.P.State Road Transport Corporation, J B S Picket, Secunderabad.
- 2 Deopt Manager, Hayathnagar Bus Depot, A.P.State Road Transport Corporation, Hyderabad.
- 3 Personal Officer, Hyderabad City Region, A.P. State Road transport Corporation, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of mandamus directing the respondents to reinstate the petitioner into service w.e.f 23-2-84 with all consequential benefits.

Counsel for the Petitioner: SMT.A.CHAYA DEVI

Counsel for the Respondents : MR.V.T.M.PRASAD

The Court made the following :

ORDER

This Writ Petition is filed seeking a Mandamus directing the respondents to reinstate the petitioner into service with effect from 23.2.1984 with all consequential benefits.

It is the case of the petitioner that he was appointed as Booking Clerk in the respondent-corporation. The petitioner joined in service with effect from 18.03.1977. Thereafter, the petitioner has discharged the duties of Conductor till 1979. While so he was removed from service for committing certain cash irregularities. However, on the appeal filed, the Regional Manager, City Region, passed orders on 23.02.1984 directing the reinstatement of the petitioner into service and advised him to report to the Personal Officer, City Region. The petitioner has reported for duty and was posted to work at Kukatpally Bus Depot. But the Depot Manager refused to permit him to join duty on the ground that he was suffering from contagious disease, like leprosy. Then the petitioner has made a representation to the Regional Manager on 26.09.1984 and also produced a medical certificate. Since the Regional Manager did not take any action, he went on making representations such as 26.09.1985, 15.01.1990 and 24.12.1991 along with medical certificates issued by the Senior Medical Officer, Government Leprosy Clinic and Training Centre, Afzalgunj, Hyderabad. The respondents have not given any reply nor reinstated the petitioner into service. Therefore, the petitioner ultimately approached this Court by way of filing Writ Petition No. 4504 of 1994. The said writ petition was disposed of by a Division Bench of this Court on 25.08.1997 directing the respondents to reinstate the petitioner into service within three months from the date of receipt of the order. Basing on the said order and the advise of the Chief Law Officer, the petitioner was reinstated into service on 28.10.1997. Now, it is the case of the petitioner that in fact

the petitioner was to be reinstated into service as per the orders, dated 23.02.1984, of the Regional Manager at least in the month of March, 1984, but though he was directed to report to the Depot Manager at Kukatpally, he was not taken into service suspecting him that he was suffering with contagious leprosy, in spite of the fact that he had submitted medical reports showing that he was not suffering with contagious leprosy. However, only when he filed W.P.No. 4504 of 1994 which was disposed of on 25.08.1997 he was reinstated into service on 28.10.1997. Therefore, the petitioner was kept out of service in view of the arbitrary act of the respondents. Thus, he is entitled for continuity of service right from 23.02.1984 till 28.10.1997 with all consequential benefits.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner. It is asserted that after the reinstatement orders were passed on 23.2.1984, he was directed to report at Kukatpally Bus Depot, but the Depot Manager, Kukatpally rejected to take the petitioner on duty as Conductor, since he was having contagious disease (leprosy). Evidently the petitioner was a leprosy patient and having registration card No. 1083 of Government Leprosy Clinic and Training Centre, Hyderabad. The Senior Medical Officer, Leprosy Clinic of Training Centre, Afzalgunj, Hyderabad, issued medical certificate dated 05.1.1990 to the effect that the petitioner was examined clinically and bacteriologically on 01.01.1990 and found to be negative of A.F.B. and he is not contagious to others and that he can move freely with others. From this, it can be assumed that the petitioner was still under the treatment from the date of issue of reinstatement orders of 1st respondent i.e. from 23.2.1984 to 4.01.1990. Therefore, the contention of the petitioner that he made representation on 26.09.1984 to the Regional Manager and made representation on 26.09.1985 and 15.01.1990 are all false and he is put to strict proof of the same. The petitioner lost his job in the year 1979. After obtaining reinstatement orders from the Regional Manager in the year 1984, if the authorities were not taking him on duty on the ground of contagious disease, he should as well gone to the leprosy clinic and obtained a certificate in February 1984 itself. Instead of obtaining the certificate in the year 1984, he obtained the same in the year 1990. Even according to his own averment, he was fit to hold the post only in the year 1990 or 1991 and not prior to that. Therefore, the contention of the petitioner that he should be deemed to have been reinstated into service on 23.02.1984 and his services from 23.02.1984 to 28.10.1997 to be treated as continuous and he is also

entitled for all wages etc. cannot be accepted as the same is without any substance and hence the writ petition is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

At the out-set, it may be noticed that the respondents have not denied the fact that the petitioner was not be permitted to join duty. The assertion of the respondents is that since the petitioner has produced the medical certificate only in the year 1990, it must be deemed that he was suffering with contagious disease and therefore, he was not entitled to be permitted to join duty, cannot be accepted. The certificate issued by the Medical Officer in the year 1990 or in 1991 is in categorical terms showing that he was free from contagious leprosy disease and he can move freely among the people. Nonetheless, even otherwise assuming that the petitioner was suffering with contagious disease during 1993-1994, therefore, he was not permitted to join duty at Kukatpally bus Depot, at least he should have been permitted to join duty in the year 1990 or in 1991 when the certificate was issued by the competent authority. Except saying that the petitioner ought to have approached either the higher authorities or the High Court for getting the relief, there is no denial of the fact that the petitioner has been approaching them continuously.

This is a very unfortunate case where the petitioner contacted with leprosy disease and he was prevented from joining duty in the year 1984 when he was reinstated into service and in spite of the medical certificate issued by the competent authority in the year 1990 or 1991. Ultimately, the petitioner has approached this Court in the year 1994 and worked out his remedies. This Court has disposed of the Writ Petition No. 4504/94 directing the respondents to reinstate the petitioner within three months from the date of receipt of the order. Therefore, he was reinstated into service on 28.10.1997.

I am of the considered opinion that in the peculiar facts and circumstances of the case, the petitioner is entitled to count his services from 23.02.1984 to 28.10.1997 as a continuous service for the purpose of pensionary and other retirement benefits. However, he is not entitled for other monetary benefits like increments, bonus etc.

With the above directions, the writ petition is disposed of. No order as to

costs.

C.V. RAMULU, J

5TH July, 2005

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SECTION OFFICER

To

1. The Regional Manager (HCR) A.P. State Road Transport Corporation,
J.B.S. Picket, Secunderabad
2. The Depot Manager, Hayathnagar Bus Depot, A.P.State Roadl Transport
Corporation, Hayathnagar, Hyderabad
3. The Personal Officer, Hyderabad City Region, A.P. State Road Transport
Corporation, Hyderabad
4. 2 C.D. copies.